

NOTES FROM

ASPEN INSTITUTE WORKSHOP

24-28 July 1978

SECRECY, NATIONAL SECURITY AND GOVERNANCE
IN AN OPEN SOCIETY

Monday, 24 July 1978

Harlan Cleveland - "The presumption of openness and the presumption of secrecy."

- role obligations and moral dilemmas are dilemmas of the individual not organization.
- people make the ethical decisions even if those decisions are to accept the decision of another.
- yet not good enough to accept the ethical concepts of another.
- rule: if action held up to public scrutiny, would I feel right about doing? How will I feel about how others react?

(GT note: assumes a level of ethical/moral sensitivity which may be below level acceptable to society.)

- need code ethics/set of standards to live up to.
- Propose:
 1. If security curtain is stretched too much, it will fray and won't be able to keep even "good" secrets.
 2. Narrow amount of secrecy to protect better.
 3. One way - assume everything is open, then justify exceptions.
 4. It is in the nature of an open society that justification be done in the open.

- Big questions:

1. Does it need to be secret?
2. Why?

3. From whom?
4. How long?
5. Who decides?
6. What criteria? (Criteria must be open.)
7. What review? Is anyone consulted who has power/ courage to say the emperor has no clothes? Anyone who has the power to question logic that seems watertight only when exposed to the inner circle who agree?

Olin Robison (Pres, Middlebury College, VT)

- secrecy is a pragmatic not an ethical question. How much secrecy? Answer: as much as the government needs to carry out its responsibilities.
- interesting to contrast US vs UK view on secrecy: US society says all secrecy is bad, although some is necessary; UK society says some secrecy is necessary, therefore not all secrecy is bad.
- secrecy is not bad per se. Discretionary authority is sometimes used badly.
- in past, we had a Calvinist view of man, i.e., man is basically bad. Institutions are basically amoral, but they have the capacity to be either good or bad.
- now, we believe institutions are likely to abuse power, therefore can be presumed bad. Our view of man has become more benevolent.
- we've become uncomfortable with discretionary power. Secrecy has become a mechanism of abuse.
- but secrecy is neither good nor bad, moral or ethical. Secrecy is only moral/ethical only in a specific context.
- therefore, the ethics of secrecy are situational; not absolute, fixed, dependable.
- one must then question, should the government try to adapt policies to the mood of the day?

- why have changes come at this time? Because
 1. Americans believe there are no insoluble problems, and
 2. men of goodwill will come to similar conclusions.
- suggest:
 1. We've lost our fear of Communism and the Russians.
 2. We've lost our sense of humor. The context in which public servants must conduct the nation's business has been altered. Everything is always taken seriously. Nothing is excused. Therefore we are less confident/less comfortable and we have a more paranoid public service.

Graham Allison - Summarizes the major questions raised so far:

1. Should political systems like ours start with a presumption of openness, then make exceptions? Or, alternatively should we presume in business of government of necessity there will be secrets, therefore, we should try to classify them and identify categories?

(Cleveland vs Robison)
2. In government, is the public servant in greater ethical jeopardy when taking a secret action or when going public?

(Cleveland vs Doug Cater)
3. How, if at all, should our answers to 1 and 2 above be affected by public moods?

(Cleveland vs Robison)

Ray Cline

- it all comes back to the quality of people in public service. Ethics are situational; they change; therefore in the end you have little more than the individual and how he thinks to lean on.

Discussion Points

- openness is the only presumption with which to start. If we presume secrecy, it makes the burden of production/proof nearly impossible because there is no way for outsiders to check.

Cline - The media, wrapped in the 1st Amendment, seems the only uncontrolled espionage system in the U.S.

Tuesday - 25 July 1978

Charles Yost - "Justification for Secrecy in Diplomacy"

- whether a public servant is honest or dishonest, they all believe they know best/best position to judge all equities. In general, most feel the less the public knows the better government can function.
- believe in a high degree of openness in diplomacy; need public support, therefore need understanding. Lack of (1) broad understanding and (2) public consensus has led to serious public misunderstanding of policy. This denies to government the warnings through public feedback which might have averted problems.
- in diplomacy, secrecy is justified in 3 areas:
 1. Protection of sources. Not same as intel sources (clandestine), but normal contacts with contemporaries in other governments built up over many years. These contacts provide information they intend to be passed on, but expect at the same time for the relationship to remain confidential/discrete.
 2. On-going negotiations. Can't be conducted in a goldfish bowl.
 3. Process of decision-making on a policy issue. Must be free of random pressures. These cases (1 & 2) are generally tactical/short-term.

Louis Henkin

- who decides on what will be secret is the critical question.
- foreign sources is just one aspect of a bigger problem. Not every source must be kept secret. Policy itself must sometimes be kept secret. Often foreign countries enter into agreements with the U.S. on the condition that their own people not know.
- there must be public and Congressional participation in foreign policy making. The Executive Branch alone does not make foreign

policy. Congress especially must be in the know to participate. Any discussion of secrecy is really a discussion of Congressional authority. The press/public can be taken care of; more important is determining the proper accommodation between the President and Congress; i.e., how do we make what information available to whom in Congress?

Wednesday, 26 July 1978

Thibault - Brief on Changes in Intelligence Community followed by "Justification for Secrecy in Intelligence"

Joe Jordan - "Justification for Military Secrecy"

- we try to conceal our own weaknesses and find the enemy's. Then can't let the enemy know lest he change his plans.
- we don't consider whether Soviets might already know something. If the information is important, classify it.
- general categories: capabilities, plans, contingency plans, and concealed weaknesses.
- all categories of secrets are interrelated, i.e., strategy with weapons with intelligence with diplomacy with administrative policy-making.

Cline

- who should decide on what will be secret? Three major criteria:
 1. Joint system, i.e., not confined to 1 agency.
 2. Fewer people.
 3. Legislatively authorized sanctions for transgressors.

Al Carnesale

- must determine first why we want to be more open.
 1. Is it an obligation?

2. Is it to seek a consensus for action?
3. Is it because it leads to better decisions?

Graham Allison - "Justifications for Secrecy in Administration"

- argument for openness - Mort Halperin's is not all inclusive but a good starting point.
 - ° present system includes no disclosure for advocacy.
 - ° good government requires informed debate.
 - ° reform is needed.
- tenets of new openness.
 1. Starts from the belief that secrecy is at the root of government problems. If public had been informed, problems might have been avoided.
 2. Public has, if not a constitutional right, at least a quasi-constitutional right to know.
 3. That the press has a duty to dig information out.
 4. Congress has a right to know and has a right to make public whatever they feel the public needs.
 5. Bureaucrats have the right to make public information supporting causes they believe in.
- should test tenets/force them to confront a hard case, e.g., Cuban Missile Crisis. Should ask ourselves at each juncture what should have been secret/open.
 - should Soviets have been informed?
 - should President have let the bureaucracy know?
 - Congress?
 - allies?
 - press?
 - public?

1. Discovery of missile installations.
2. Decision to blockade.
 - President thought there was a 1 in 3 chance of going to nuclear war. Whose views counted? SecState, VP, Bobby Kennedy and Ted Sorenson knew; neither Congress or public informed.
 - should more of bureaucracy have been involved in analyzing options?
 - between announcement of blockade and resolution of crisis, the group of those in the know narrowed more. Acheson dropped out because he disagreed with actions contemplated.
 - deal to withdraw missiles from Turkey after Soviets withdrew missiles from Cuba.
 - only 2 Kennedys, Dobrinin, and Khrushchev knew.
 - who else should have known?

Jordan/Cline

- not question of the number of advisors but that they represent a spectrum of views and have the courage to speak up to the President.

Thursday, 27 July 1978

Douglass Cater - "The administration and enforcement of public secrecy."

- positions on the role of the press:
 1. (Robert Cutler's theory):
 - ° policy making process goes through an acid bath of scrutiny.
 - ° until the President is involved, nothing can be reported because staff views are of no consequence until accepted by the President.
 - ° national security is a seamless web. Pricked in one place, it unravels everywhere. Therefore the press must proceed with great care.

2. (Reston theory): can't wait until policy has hardened into commitment (sometimes very early on). Reporter must get in early and fully.
 3. (Dietel theory): ultimate public right is right to know. Public has properly lost confidence in government. Therefore, except in the rarest circumstances the public has right to know.
- Reston theory has won the day.
 - press role stereotype is Woodstein.
 - Proposals:
 1. The government (incl CIA) has grown skilled in press relations.
 - news is conflict not resolution of conflict.
 - 90% of leaks are designed to disrupt/destroy policy in an early stage.
 - floating of trial balloons today are not to test waters, but to get the balloon shot down so you don't have to deal with it.
 2. (Ellsberg Syndrome): when I feel sufficient disagreement with what is going on, I take it to a reporter.
 3. (N.Y. Times/Wash Post Philosophy): the press has the right to poach on government and define for themselves what is the public right to know.
 - Comment: if the government systematically laid out issues and alternatives, that would pre-empt the press' attempt to put its own interpretation on issues.
 4. Presses right to know often precludes better ways the public might get to know and prevents the public from receiving the issues in malleable form.
 - dilemma - how to involve a sufficient variety of public representatives to contentious points of view in early stages.
 - Conclusions:
 - ° direction of public policy is toward more openness.

- ° the press is a limited and blunt instrument in opening the way for the public to know. The press is a hit & run driver.
- ° a public policy for openness requires 3 new developments:
 - (1) innovative new public forums to debate policy before it hardens into commitment. Use cable TV, satellites like New England town meetings. Stop relying on Gallup polls and the TV news to tell us what public opinion is.
 - (2) must demand of the President a larger role in explaining the policy process. He should be the chief explainer. Diminish the role of Brzezinski and others as interpreters.
 - (3) provide for more rapid and searching post mortems of policies/actions which have gone right/wrong.
- the public right to know and the press right to know are not the same. Policy makers must go directly to the public - to bypass the press. The press is not an adequate public surrogate.

Olin Robison

- more students want to be journalists today than any other profession. They would rather write about the foibles of politicians than be one. It is a question of accountability; the press is accountable to no one plus it has the opportunity for fame and fortune. Therefore it is a desirable job.
- the new generation looks on the role of critic as better than the role of builder.

Friday, 28 July 1978

Cleveland - Summary of Issues

1. The right to know is plural: the public's is not the same as the press'; the Congressional staff's is not the same as Congress', etc.
2. The secrecy issue is an issue of power/authority, therefore procedure is often more important than substance.

3. Leaks are spectacular but in the end don't look all that important (not a consensus view).
4. There are obstacles to the process of making masses of information available. The public can't handle the profusion of information it now receives. What will it do with more? This makes greater openness more difficult.
5. Should take action now to control openness because there is no assurance that the swing of the pendulum toward openness which is pushed by public revelations will not continue to swing uncontrolled.

Therefore -

1. If we can't define a line between secrecy and openness, we are left to set up procedures to determine that line as we go, case by case, and rigging these procedures to favor openness. Rigging the procedures plus sensitizing the public through discussion is of the essence.
2. In rigging the procedures, accountability is two way: must protect both secrets and openness.
3. Maybe there is some intermediate step between keeping quiet and going to the NY Times. Some form of "acceptable" whistleblowing should be institutionalized.
4. Ultimately secrets can only be protected by an individual sense of responsibility plus legal sanctions.
5. What to do? Now we must talk about processes and the means of reducing the amount of secrecy so that what is left is more enforceable.